

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

United States of America
ex rel. ALEX DOE, Relator,

The State of Texas
ex rel. ALEX DOE, Relator,

The State of Louisiana
ex rel. ALEX DOE, Relator,

Plaintiffs,

v.

Planned Parenthood Federation of America, Inc., Planned Parenthood Gulf Coast, Inc., Planned Parenthood of Greater Texas, Inc., Planned Parenthood South Texas, Inc., Planned Parenthood Cameron County, Inc., Planned Parenthood San Antonio, Inc.,

Defendants.

NO. 2:21-CV-22-Z

**DEFENDANTS' MOTION TO EXPEDITE BRIEFING AND CONSIDERATION OF
THE MOTION TO TRANSFER VENUE OR, ALTERNATIVELY, TO STAY**

Defendants have filed a Motion to Transfer Venue (“Motion”) to the Austin Division of the Western District of Texas pursuant to 28 U.S.C. § 1404(a), which must take “top priority” if its purposes are to be served. *See In re Apple*, 979 F.3d 1332, 1337 (Fed. Cir. 2020) (“Although district courts have discretion as to how to handle their dockets, once a party files a transfer motion, disposing of that motion should unquestionably take top priority.”). Because discovery and related motion practice are currently underway, Defendants respectfully request that the Court order accelerated briefing in order to permit expedited review of the Motion or, alternatively, stay proceedings pending resolution of the Motion.

To promote the prompt resolution of the Motion, Defendants propose shortening the

briefing schedule by two weeks.¹ Under the Local Rules, Plaintiffs have 21 days to respond to the Motion, and Defendants then have 14 days to reply to Plaintiffs' responses. Defendants ask the Court to shorten these windows by seven days each, so that Plaintiffs will have 14 days to file their responses, while Defendants will have seven days to file their reply. That is, Plaintiffs should be permitted until August 26, 2022, to file responses, with Defendants' reply due no later than September 2, 2022. This proposed briefing schedule will allow the issues raised in the Motion to become ripe for consideration on an accelerated basis, consonant with the priority courts typically give to motions to transfer venue. *See In re Horseshoe Ent.*, 337 F.3d 429, 433 (5th Cir. 2003) (explaining that transfer motions should take “top priority” in the handling of a case); *see also In re Google Inc.*, 2015 WL 5294800, at *1 (Fed. Cir. July 16, 2015) (noting that the intent § 1404—“to prevent the waste of time, energy, and money and to protect litigants, witnesses, and the public against unnecessary inconvenience and expense”—is “frustrate[d] . . . when defendants are forced to expend resources litigating substantive matters in an inconvenient forum while a motion to transfer lingers” (quoting *Van Dusen v. Barrack*, 376 U.S. 612, 616 (1964) (cleaned up))).

Defendants seek expedited briefing and consideration because the current scheduling order requires the parties to complete discovery by November 30, 2022—which is only three and a half months away—and file dispositive motions less than a month later. *See Am. Sched. Order [DE 123]*. Before then, the parties must complete document productions and undertake depositions, as well as resolve discovery disputes (there are some outstanding, and there likely will

¹ The Court previously has ordered expedited briefing to resolve other time-sensitive motions affecting discovery and the progress of this case. *See Order [DE 102]* (response to motion due within four days and reply due two days later); *Order [DE 109]* (response to motion due within ten days and reply due two days later).

be more).² And resolution of the Motion will determine, among other things, how the parties proceed with depositions. While this Court lacks Rule 45 subpoena power over any anticipated witnesses, the Austin Division of the Western District of Texas has power over several anticipated witnesses who reside in or near the Austin Division, as discussed in the Motion. Since the parties (or subpoenaed witnesses) may need to resort to the Austin Division for relief under Rule 45, it would conserve resources, provide consistency, and be more convenient for the same court to hear those matters if the Motion is ultimately granted and the case is transferred to the Austin Division. *See In re Volkswagen of Am., Inc.*, 545 F.3d 304, 316 (5th Cir. 2008); *McDonnell Douglas Corp. v. Polin*, 429 F.2d 30, 30 (3d Cir. 1970) (“Judicial economy . . . requires that the court which ultimately decides the merits of the action should also decide the various questions which arise during the pendency of the suit instead of considering it in two courts.”).

Alternatively, for the same reasons discussed above, Defendants ask the Court to stay these proceedings pending resolution of the Motion. *See In re SK Hynix Inc.*, 835 F. App’x 600, 601 (Fed. Cir. 2021) (ordering district court to stay all proceedings concerning substantive issues in the case pending the district court’s ruling on transfer motion); *In re Apple Inc.*, 979 F.3d at 1336–38 (criticizing a district court that denied a stay motion and “barreled ahead on the merits in significant respects” before ruling on transfer motion); *In re Google Inc.*, 2015 WL 5294800, at *1–2 (ordering district court to rule on transfer motion and to stay proceedings pending resolution of the transfer motion).

² Under the Amended Scheduling Order, the parties must file any motion to compel or for a protective order within 15 days after the discovery response at issue was served or due to be served.

Dated: August 12, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2022, the foregoing document was electronically filed and served upon all counsel of record via the Court's CM/ECF system.

/s/ Danny S. Ashby
Danny S. Ashby

CERTIFICATE OF CONFERENCE

I hereby certify that on August 12, 2022, counsel for Defendants conferred with counsel for Relator and the State of Texas and they indicated that they were opposed to Defendants' request to expedite consideration of Defendants' motion to transfer venue.

/s/ Danny S. Ashby
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